

California Regional Water Quality Control Board
Santa Ana Region

April 4, 2003

ITEM: 12

SUBJECT: Status of Efforts to Require Suspected Dischargers to Investigate
Perchlorate Pollution in the Rialto, Colton and Chino Groundwater
Subbasins

DISCUSSION:

At the February 21, 2003 Board meeting, staff reported that, pursuant to Section 13267, the Executive Officer had issued a total of ten Investigation Orders to suspected dischargers regarding the perchlorate pollution in the Rialto, Colton and Chino Groundwater Subbasins. An additional Investigation Order is currently being prepared for General Dynamics Corporation. Identified below is the status of the investigations for those suspected dischargers that have responded to the Investigation Orders:

County of San Bernardino

In 2002, the County completed preliminary groundwater investigations of their property. On November 15, 2002, an additional work plan was submitted. The Regional Board adopted CAO R8-2003-0013 on January 17, 2003. On January 31, 2003, the Executive Officer approved the work plan. In February 2003, the County filed an appeal regarding the wording in two of the CAO's findings, but stated they were supportive of the CAO and intended to comply with the CAO. The County has received funding and selected a contractor to conduct the additional work required under the CAO. Installation of additional monitoring wells is expected to begin in mid-April. The County has also met with the water purveyors in the Colton and Rialto Basins to discuss the future implementation of a pump-and-treat system for removal of perchlorate that is emanating from the County's property.

American Promotional Events, Inc. - West (APE)

The Executive Officer conditionally approved APE's proposed work plan on February 13, 2003. APE completed excavation of 15 on-site trenches during the week of March 10, 2003. Board staff observed some of the work and collected soil samples from some of the excavations. APE's report on their investigation activities is scheduled to be submitted by April 14, 2003.

Goodrich Corporation

On January 17, 2003, the Board adopted Resolution R8-2003-0017, approving a settlement agreement for wellhead treatment with the water purveyors in the Rialto, Colton and Chino Basins. Goodrich Corporation and the Board's Executive Officer signed the final agreement on January 28, 2003 and January 30, 2003, respectively. Regional Board staff is hosting a meeting of the suspected dischargers of perchlorate in the Rialto and Colton Basins. The purpose of the meeting is to facilitate a cooperative effort toward investigation and remediation of the perchlorate pollution in the groundwater. The meeting has been scheduled for 1:30 P.M. on April 1, 2003 at the Regional Board's office.

Pyro Spectaculars by Souza and Astro Pyrotechnics

On March 3, 2003, the Executive Officer conditionally approved two work plans for Pyro Spectaculars and Astro Pyrotechnics that had been submitted on December 9, 2002. An additional sampling proposal for Pyro Spectaculars, a waste containment plan for Astro Pyrotechnics, and a time schedule for the investigation at each site were to be submitted to the Executive Officer by March 19, 2003. Staff will provide an update of the status of this submittal at the Board meeting.

Aerojet (GenCorp)

On March 19, 2003, Aerojet submitted a data evaluation of a "wipe" sample that contained perchlorate, which was previously collected from a bunker that was formerly occupied by Aerojet. This submittal was in addition to a previous submittal from Aerojet that provided a summary of the historical usage of the former storage bunkers that Aerojet occupied in Rialto. The evaluation raised "potential data quality issues" related to the detection of perchlorate in the "wipe" sample, and reiterated Aerojet's previous position that the 13267 Order be withdrawn. Board staff is reviewing this submittal.

Raytheon Company

On February 19, 2003, Raytheon submitted the results of their additional research on the company's use of the Rialto bunkers. Raytheon has accepted responsibility for the use of six storage magazines during the period from 1992 to 1994. Raytheon believes that their activities in Rialto (as Hughes Missile Systems) were limited to the storage of self-contained ammunition cartridges, detonators, and similar "explosive or initiating devices" that contained propellant. Raytheon stated that it is unlikely that Hughes' operation of the bunkers could have resulted in perchlorate releases, and that there is no basis for requiring further work from Raytheon. Raytheon stated that the activities that took place in the six magazines from 1984 to 1992 are the responsibility of the General Dynamics Corporation.

General Dynamics Corporation

The Executive Officer will issue a 13267 Investigation Order requiring that General Dynamics Corporation conduct a records investigation of the historical activities of General Dynamics Air Systems Division at the Rialto bunker site, and submit a report of this investigation by May 30, 2003.

U.S. DoD - Army Corps of Engineers (USACE)

At the January 29, 2003 hearing before the Senate Select Committee for Urban Economic Development, Colonel Richard Thompson testified on behalf of the USACE, stating that the Corps would submit the final Records Search Report to the Executive Officer in August of 2003.

Emhart Industries, Inc./Black & Decker (former West Coast Loading Corporation/Kwikset)

A work plan, pursuant to a 13267 Order, for a perchlorate investigation at the former West Coast Loading Corporation (WCLC) facility was due on November 22, 2002. Emhart submitted a Petition for Stay and for State Board review of the 13267 Order. The Stay request was dismissed by the State Board. The Executive Officer issued subpoenas for 58 boxes of WCLC records that are in the possession of attorneys for Kwikset and Emhart/Black & Decker. Kwikset and Emhart/Black & Decker challenged the subpoenas. It also demanded that Board staff be made available for depositions. The staff deposition took place on February 25, 26 and 27, 2003.

Staff's request for an order requiring production of 58 boxes of records relating to the former West Coast Loading Corporation (WCLC) facility was considered in a hearing before the Presiding Officer of the Board (Chairwoman Beswick) on March 6, 2003. Following the issuance of the Presiding Officer's decision, attorneys for Kwikset and Emhart/Black & Decker reported that they had located 74 additional boxes of records relating to the operations of WCLC. On March 19, 2003, they provided a small packet of documents from those additional 74 boxes that are asserted to be the only documents responsive to Staff's subpoena.

In early March, the Executive Officer set the date of April 3, 2003 for a special hearing by the Board to consider a proposed Cleanup and Abatement Order for Emhart Industries, Inc., and Black & Decker (U.S.), Inc., successors of the former WCLC.

In mid-March, attorneys for Kwikset and Emhart/Black & Decker notified the Executive Officer that depositions of former employees of the West Coast Loading Corporation would commence on March 21, 2003 and involve a total of six deponents over a 3½ day period. The Executive Officer filed a Request for Protective Orders, seeking to delay the commencement of the depositions in order to allow staff and legal counsel access to relevant documents in advance of the depositions, and provision of additional time to

depose each witness. The Request was heard before the Presiding Officer of the Board (Vice Chair Ameri) on March 19, 2003. The Presiding Officer ruled that the depositions should proceed as scheduled, but that Kwikset and Emhart/Black & Decker had to provide any documents to be used in the depositions in advance, that Regional Board counsel must be allowed 1/3 of the allotted deposition time for each witness, and that Regional Board staff could reopen the depositions upon good cause, if necessary. The depositions were scheduled for March 21, 24, 25 and 26, 2003. The April 3rd hearing has been postponed until after completion of the on-going depositions.

Zambelli Fireworks Manufacturing Company

Staff has received updates regarding Zambelli's historical research. In addition, Zambelli is considering participating in a joint effort with the County of San Bernardino in conducting an investigation that would include the site of their former bunker in Rialto.

At the April 4, 2003 Board meeting, staff will provide information on any further developments, and will continue to update the Board at future meetings on the progress of this effort.